

Message Text

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ACTION ARA-10

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P 122215Z JUN 75

FM AMEMBASSY LIMA

TO SECSTATE WASHDC PRIORITY 5499

C O N F I D E N T I A L L I M A 4 7 7 0

EO 11652: GDS

TAGS: BBAK, PFOR, PE

SUBJ: EXPROPRIATION OF GULF OIL DEL PERU

REF: STATE 134431

1. EMBASSY HAS DISCUSSED DEMARCHE WITH EDWIN MCCAIN, FORMER HEAD OF GULF DEL PERU. HE STATED THAT HE THOUGHT ACTION WOULD NOT HELP GULF HERE AND MIGHT IN FACT SOMEWHAT WORSEN ITS POSITION. ON THE OTHER HAND, HE SAID, HE COULD UNDERSTAND USG REASON FOR MAKING DEMARCHE AND WOULD NOT OBJECT TO IT.

2. HE SAID PARENT COMPANY, BECAUSE OF ITS FAR LARGER INTERESTS IN OTHER COUNTRIES, HAD DECIDED TO CUT ITS LOSSES IN PERU, TO ACCEPT WHATEVER COMPENSATION IS OFFERED, AND TO LEAVE PERU AS QUICKLY AND AS QUIETLY AS POSSIBLE. HE SAID THAT AFTER INITIAL EXPROPRIATING ACTION, HIS RELATIONS WITH PERUVIAN AUTHORITIES HAVE BEEN EXCELLENT AND GOP APPEARS TO BE WELL-INTENTIONED AND PREPARED TO EFFECT COMPENSATION. HIS PRINCIPAL COMPLAINT IS THAT THE GOP IS PROVING INCREDIBLY INEFFICIENT, AND HE SAID HE COULD NOT HAZARD A GUESS AT THIS POINT WHEN PAYMENT MIGHT BE MADE. HE IS PREPARED FOR AN INDEFINITE STAY (CONTINUING ON THE GULF/PITTSBURGH PAYROLL) WHILE THE AFFAIRS OF THE COMPANY ARE STRAIGHTENED OUT.

3. THE EMBASSY IS ACCORDINGLY PREPARED TO PROCEED WITH
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THE DELIVERY OF THE NOTE. WE WOULD, HOWEVER, LIKE TO

SUGGEST THE FOLLOWING PARAGRAPHS AS SUBSTITUTES FOR PARAGRAPHS 4 AND 5 OF REFTEL:

A. IN THESE CIRCUMSTANCES, IT IS DIFFICULT TO AVOID THE CONCLUSION THAT THE ACTION OF THE GOVERNMENT OF PERU WAS PRECIPITATE AND INCONSISTENT WITH ACCEPTED PRINCIPLES OF INTERNATIONAL LAW, WHICH REQUIRE THAT EXPROPRIATIONS SHALL BE NONDISCRIMINATORY AND FOR A PUBLIC PURPOSE, IN ADDITION TO BEING ACCOMPANIED BY PROMPT, ADEQUATE, AND EFFECTIVE COMPENSATION.

B. THE GOVERNMENT OF THE UNITED STATES OF AMERICA INVITES THE ATTENTION OF THE GOVERNMENT OF PERU TO THE FOREGOING POINTS AS A FORMAL EXPRESSION OF ITS CONCERN. THE EMBASSY OF THE UNITED STATES OF AMERICA AVAILS ITSELF OF THIS OPPORTUNITY TO REITERATE TO THE MINISTRY OF FOREIGN RELATIONS THE ASSURANCES OF ITS HIGHEST CONSIDERATION.

4. THE EMBASSY BELIEVES THAT THE SUGGESTED CHANGES SERVE TO SMOOTH THE TONE OF THE NOTE WITHOUT MATERIALLY AFFECTING ITS IMPACT. IN PARTICULAR, WE BELIEVE THAT WHILE THE POINT ON THE EFFECT OF THE GOP'S ACTION ON THE INVESTMENT CLIMATE IS WELL TAKEN (WE HAVE MADE THIS POINT ORALLY TO SEVERAL GOP OFFICIALS), IT SEEMS OUT OF PLACE HERE. WE BELIEVE THE NOTE SHOULD RATHER CONFINE ITSELF TO THE EFFECT OF PERU'S ACTION ON THE INTERESTS OF THE U.S. AND ITS CORPORATE CITIZENS. FURTHER, THE REFERENCE TO THE ACTION AS NOT BEING A PRODUCT OF JUDICIAL PROCESS UNDER THE LAW OF PERU SHOULD BE ELIMINATED. THE EMBASSY BELIEVES THE GOP COULD AND WOULD TAKE EXCEPTION TO THIS. THE EXPROPRIATION WAS TAKEN PURSUANT TO A DECREE LAW PROMULGATED BY THE PRESIDENT AND CABINET AND WAS CONSISTENT WITH THE LEGAL PROCESS OF THE REVOLUTIONARY GOVERNMENT. FINALLY, THE POINT MADE IN THE LAST PARAGRAPH IS UNCLEAR TO US. APPROPRIATE REMEDIAL MEASURES COULD PRESUMABLY INCLUDE A REVERSAL OF THE EXPROPRIATION, OR AN UNDERTAKING BY GOP NOT TO REPEAT THE ACTION; GOP WOULD OBVIOUSLY NOT COMMIT ITSELF TO DO EITHER. WE THINK OUR POINT IS MORE EFFECTIVELY MADE BY STRAIGHTFORWARD STATEMENT THAT USG IS CONCERNED BY THIS

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